

## REMARKS

This amendment is responsive to the Office Action mailed February 16, 2010. Applicants have carefully considered the claim rejections and the comments provided in the Office Action. Applicants respectfully traverse the claim rejections and request withdrawal of the same.

### Status of the Claims

While applicants respectfully disagree with the claim rejections in the Office Action, applicants desire to advance the prosecution of the present application and have therefore amended Claim 1 to clarify the claimed cooking device. Applicants have also amended Claims 2, 4, 19, 21, and 22. Features previously recited in Claims 5 and 16 have been presented in new Claims 24 and 25. In view of these amendments, Claims 5, 16-18, and 23 have been canceled, without prejudice or disclaimer. Further, new Claims 26 and 27 have been added to further define features set forth in amended Claim 1. Claims 1, 2, 4, 19-22, and 24-27 are thus now pending in the application. Reconsideration of the application is respectfully requested.

### Claim Objections

Initially, the Office Action objected to Claims 5 and 16 as allegedly being of improper dependent form. Applicants respectfully disagree. The U.S. Patent and Trademark Office regularly permits a claim to be amended during prosecution to depend from a later numbered claim. Such a claim dependency is not improper under 37 C.F.R. § 1.75(c). Nevertheless, with the present amendment, features that were previously set forth in Claims 5 and 16 have been moved to Claims 24 and 25. Claims 5 and 16 have been canceled, thus rendering the claim objections moot.

### Claim Rejections Under 35 U.S.C. § 102 - Juergen

The Office Action rejected Claims 1, 4, 17, and 18 under 35 U.S.C. § 102(b) as allegedly being anticipated by German Patent No. 198 32 757 (hereinafter "Juergen" as cited in the Office Action)<sup>1</sup>. Applicants respectfully traverse the claim rejections.

Claims 17 and 18 have been canceled, thus rendering the claim rejections moot. Claims 1 and 4 have been amended and define an invention that is novel over the disclosure of Juergen.

At best, Juergen explains how a cooking parameter, such as temperature (see Fig. 5) or mode of operation (see Fig. 20), is indicated with a cooking device and how the parameter may be changed by an operator of the device. Juergen is silent, however, as to how a preset value for the cooking parameter may be determined and whether the preset value of the parameter may be modified.

More specifically, in the context of Claim 1 of the present application, nowhere does Juergen identify a cooking device with a cooking parameter "reflecting at least one of a geographic location of the cooking device and a selectable operating language of the cooking device." Juergen further fails to teach or suggest that "the cooking parameter is automatically preset as a function of the location of the cooking device and/or as a function of a selected operating language of the cooking device," as claimed in Claim 1.

One example of an embodiment described in the present application is provided at page 5, line 22, to page 6, line 15, of the originally-filed substitute specification. The present application describes a situation in which a cooking device has a cooking parameter that is preset based on the geographic location of the cooking device (e.g., France) and/or based on the selected operating language of the cooking device (e.g., English).

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<sup>1</sup> The surname of the first inventor of DE 198 32 757 is Leikam. However, in the Office Action, the Examiner referred to the reference by the first name of inventor (Juergen). For the sake of consistency with the Office Action, applicants will present arguments referring to the first name, Juergen.

It should be understood that a cooking device that changes its display to show information in one language or another is different than a cooking device that has a cooking parameter that is automatically preset as a function of the *location of the cooking device* and/or as a function of the *selected operating language* of the cooking device. With the device of Juergen, a change of language will not affect the cooking process of the device. For a given cooking program, the same cooked product will result, regardless of the display language. On the other hand, with the device of Claim 1, the resulting cooked product may differ when selecting English, German, or French, for example, as the operating language of the cooking device. With the device of Claim 1, a preset parameter of the cooking program may change with the selection of a different operating language.

Because Juergen fails to teach or suggest each and every element of Claim 1, applicants submit that the anticipation rejection of Claim 1 under Section 102 should be withdrawn.

The rejection of Claim 4 should also be withdrawn. Claim 4 is directed to the cooking device of Claim 1 and further comprises "predetermined unchangeable limits within which the at least one modification function element is configured to modify the cooking parameter." Claim 4 is allowable over Juergen, both for its dependence on allowable Claim 1 and for the additional subject matter it recites.

#### Claim Rejections Under 35 U.S.C. § 103 - Juergen and Wolfgang

The Office Action rejected Claims 5, 16, 19, 21, 22, and 23 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Juergen in view of German Patent No. 198 30 844 (hereinafter "Wolfgang" as cited in the Office Action)<sup>2</sup>. Applicants respectfully traverse the claim rejections.

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<sup>2</sup> The surname of the first inventor of DE 198 30 844 is Beifuß. However, as with the primary reference DE 198 32 757, the Examiner referred to the '844 reference by the first name of inventor (Wolfgang). Again, for the sake of consistency with the Office Action, applicants will present arguments referring to the first name, Wolfgang.

Claims 5, 16, and 23 have been canceled, thus rendering the claim rejections moot. Claims 19, 21, and 22 have been amended and define an invention that is not obvious in view of the combination of Juergen and Wolfgang.

As a preliminary matter, applicants submit that Claims 19, 21, and 22 are allowable for at least the same reasons discussed above with respect to Claim 1. Claims 19, 21, and 22 depend either directly or indirectly from Claim 1 and, as shown above, the disclosure of Juergen is deficient. Applicants have carefully considered the disclosure of Wolfgang and submit that Wolfgang does not overcome the deficiencies of Juergen.

A *prima facie* case of obviousness may be established under Section 103 if "all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2009); M.P.E.P. § 2143. Applicants respectfully assert that the combination of Juergen and Wolfgang as proposed in the Office Action fails to establish a *prima facie* case of obviousness because not all of the elements of Claims 19, 21, and 22 are shown to be known in the art.

The object of Wolfgang is to characterize selectable functions of a cooking device by using easily understandable terms, said terms being presentable in different languages (see, e.g., paragraph 13). The disclosure of Wolfgang is solely directed to choosing the right terms and displaying the terms, which has the drawback that the functions of the cooking device, like cooking programs, cannot be automatically adapted to the needs of a user as soon as an operating language is selected and/or the location of the cooking device is determined. Wolfgang emphasizes the fact that, depending on the chosen country, recipes are used with a differing degree of frequency. Wolfgang attempts to make it easier for the user to find commonly-used recipes in different countries by organizing the recipes in so-called country program lists. The recipes in each of the country program lists are ordered according to their frequency of use in the

particular country. This, however, has nothing to do with automatically presetting a cooking parameter of a cooking device as a function of the location and/or operating language of the cooking device.

In contrast, the cooking device as claimed herewith provides a higher degree of flexibility and can be used for different purposes with an easy handling thereof. At least one cooking parameter of a predefined cooking program or at least one cooking parameter of a predefined cooking mode of operation of the cooking device is preset depending on a selected operating language and/or a determined location of the cooking device in order to automatically take into consideration the expected needs of the user.

Instead of simply selecting a certain term for a program or a mode of operating a cooking device as taught by Wolfgang, with a present application a cooking parameter is adapted in accordance with a selected language and/or determined location of the cooking device. For example, in Germany, cooking meat to a level of "rare" requires a core temperature of around 65°C, whereas the same term is used in France with a core temperature much below that. See, e.g., the discussion at page 10, lines 1-11, in the originally-filed substitute specification. Thus, the cooking result according to the present application will be different depending on the selected control language and/or the determined location of the cooking device.

Consider, for example, the following three situations which are covered by the claims of the present application:

(1) Installation Site: The cooking device is installed in France such that French cooking parameters are automatically loaded when selecting a cooking program or a cooking mode of operation.

(2) Language: The cooking device is installed in France, but German has been selected as the operating language such that the cooking parameters typically used in Germany are loaded when selecting a cooking program or cooking mode of operation.

(3) Installation Site and Language: The cooking device is installed in Switzerland and the control language is German. Automatically, parameters used in the German part of Switzerland are loaded for a selected cooking program or cooking mode of operation.

Claim 19 is directed to the cooking device of Claim 1, "wherein the control element is configured to preset all of the cooking parameters as a function of the location of the cooking device and/or the selected operating language of the cooking device," while Claim 21 is directed to the cooking device of Claim 4, "wherein the predetermined unchangeable limits are preset based on the location of the cooking device and/or the selected operating language of the cooking device." Applicants submit that these features are not shown by Juergen and Wolfgang, particularly when these features are considered in combination with the features of Claims 1 and 4, respectively.

Claim 22 is directed to the cooking device of Claim 1 and further comprises a locating system that is configured to automatically detect the location of the cooking device. The Office Action (page 4) alleged that Wolfgang discloses a locating system. In support thereof, the Office Action cited the "country numbers" shown as item 20 in Fig. 1. However, these country numbers simply provide a numerical reference to a country. Such numbers do not constitute a "locating system" in the context of Claim 22 of the present application. As explained at page 10, lines 9-11, of the originally-filed substitute specification:

The location of the cooking equipment can be detected automatically, for example with the aid of a locating system, so that a presetting of the parameters specifically for a country can occur automatically.

The country numbers disclosed by Wolfgang have no inherent functionality and are incapable of "automatically detect[ing] the location of the cooking device," as claimed in Claim 22.

Accordingly, because the combination of Juergen and Wolfgang fails to teach or suggest the elements of Claims 19, 21, and 22, applicants submit that the obviousness rejection of Claims 19, 21, and 22 should be withdrawn.

New Claims 24-26 are also patentable over Juergen and Wolfgang. Claim 24 recites subject matter previously claimed in former Claim 5 while Claim 25 recites the subject matter of former Claim 16. Both Claims 24 and 25 depend from Claim 22. For at least the same reasons that Claim 22 is allowable over the cited art, applicants submit that Claims 24 and 25 are in allowable condition.

New Claim 26 further recites that the geographic location of the cooking device, as set forth in Claim 1, is a country-specific location. This claim follows from the original language of Claim 1. See also, for example, page 2, lines 24-25 of the originally-filed substitute specification. New Claim 27 further recites that the confirmation and/or storage function element is operable to automatically confirm, accept and/or store the modified cooking parameter after the predetermined time period lapses. See, e.g., page 2, lines 14-18 of the originally-filed substitute specification. Claims 26 and 27 are allowable over the cited art, both for their dependence on Claim 1 and for the additional subject matter they recite.

#### Claim Rejections Under 35 U.S.C. § 103 - Juergen and Belt

The Office Action rejected Claims 2 and 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Juergen in view of U.S. Patent No. 6,193,422 (hereinafter "Belt"). Applicants respectfully traverse these rejections.

Preliminarily, applicants submit that Claims 2 and 20 are allowable for at least the same reasons discussed above with respect to Claim 1. Claims 2 and 20 depend either directly or indirectly from Claim 1 and as shown above, the disclosure of Juergen is deficient. Applicants have carefully considered the disclosure of Belt and submit that Belt does not overcome the deficiencies of Juergen.

As noted above, a *prima facie* case of obviousness requires that all of the claimed elements be known in the prior art and that one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, with the combination yielding nothing more than predictable results to one of ordinary skill in the art. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2009); M.P.E.P. § 2143. Applicants respectfully assert that the combination of Juergen and Belt fails to establish a *prima facie* case of obviousness because not all the elements of Claims 2 and 20 are shown in the Juergen and Belt references.

Belt refers to an implementation of an idle mode in a suspended/resumed microprocessor system. There is no explicit relationship between the system of Belt and a cooking device such that the relevance of Belt to the present application is questionable. There is no suggestion in Belt indicating why a skilled person in the field of manufacturing cooking devices, such as cooking ovens, would have taken Belt into consideration when further developing the subject matter of Juergen.

The disclosure of Belt relates to a portable computer, e.g., a laptop computer or notebook computer, which generally is not used to control cooking ovens. Even if Belt teaches that a time period in a portable computer can be adjusted to obtain certain power saving features when operating the portable computer, it is not at all clear that one of ordinary skill in the art would adapt such power saving features to a cooking device to adjust a predetermined time period in which a modified cooking parameter is automatically confirmed, accepted and/or stored, as claimed in Claim 2 of the present application. It is also not clear that Belt is applicable to the subject matter of Claim 20, in which the predetermined time period is approximately one second to approximately thirty seconds after the last activation of the control element. Without undue hindsight analysis, applicants submit that Belt cannot be considered as relevant prior art for the present patent application.



### CONCLUSION

After careful review of the cited references, applicants respectfully submit that a *prima facie* case for rejecting Claims 1, 2, 4, 19-22, and 24-27 has not been shown in the cited art. Therefore, withdrawal of the claim rejections and allowance of the application is requested. Should any issues remain needing resolution, the Examiner is invited to contact the undersigned counsel at the telephone number indicated below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Kevan L. Morgan", written over the printed name.

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